IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No. 452 of 2001

For Approval and Signature:

HONOURABLE MR.JUSTICE P.B.MAJMUDAR

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RAGHAV MOM BHARVAD
Versus
SMT.NAVALBEN BHAGWANDAS

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Appearance :
MR SANDEEP N BHATT for Applicant.
UNSERVED-EXPIRED (R) for Opponent.
MR ZUBIN F BHARDA for Opponent Nos. 1.2.1, 1.2.2, 1.2.3, 1.2.4, 1.2.5,1.2.6

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CORAM : HONOURABLE MR.JUSTICE P.B.MAJMUDAR

Date : 27/02/2006

ORAL JUDGMENT

By filing this Civil Revision Application under Section 115 of the Civil Procedure Code, the applicant, who is original plaintiff of Regular

Civil Suit No.12/1998 has prayed for quashing and setting aside the order passed by learned trial Judge below Exh.24 by which the suit of the plaintiff is dismissed with no order as to costs.

Mr.Bhatt, learned advocate for the applicant submitted that on the basis of application given by the other side at Exh.24, the Court came to the conclusion that the suit is not maintainable on the ground that the suit is not tenable as no permission of the Charity Commissioner is taken for filing the suit. It is required to be noted that when the suit is terminated by way of dismissal of the same, appropriate remedy available to the applicant is to file regular appeal under Section 96 of the Code of Civil Procedure.

Realizing this difficulty, Mr.Bhatt, learned advocate for the applicant submitted that the applicant would prefer an appeal, as stated herein above, within a period of two weeks from today and, therefore, he may be permitted to withdraw this Civil Revision Application.

Mr.Bharda, learned advocate for opponents No.1.2.1 to 1.2.6 submitted that since the applicant wants to withdraw this application in order to file appeal before the District Court, he has no objection if this application is permitted to be withdrawn.

Permission is granted. Accordingly, this Civil Revision Application is disposed of as withdrawn. Rule is discharged with no order as to costs. At the request of Mr.Bhatt, interim relief granted earlier is ordered to be extended till 14th March, 2006. It will be open to the applicant to prefer appropriate application for condonation of delay along with appeal and it

is for the concerned Court to decide such application on its own merits and in accordance with law. On this aspect, this Court is not required to express any opinion.

(P.B.MAJMUDAR, J.)

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